

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Dantonio Tucker,	)	Civil Action No. 7:15-3120-BHH
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	<b>ORDER AND OPINION</b>
City of Spartanburg, Spartanburg City	)	
Police Department, and Jonathan	)	
Lawson	)	
	)	
Defendants.	)	
_____	)	

Plaintiff Dantonio Tucker ("Plaintiff"), proceeding *pro se*, brought this civil action pursuant to 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina, this matter was referred to United States Magistrate Judge Kevin F. McDonald for pretrial handling. The matter is now before this Court for review of the Report and Recommendation ("Report") issued by the Magistrate Judge on March 22, 2016. (ECF No. 43.) In his Report, the Magistrate Judge recommends that Defendants' motion to dismiss be granted and this case be dismissed for failure to comply with a court order to provide discovery pursuant to Rule 37 and for lack of prosecution pursuant to Rule 41(b). (*Id.* at 3.) Neither party filed objections, and the time for doing so expired on April 8, 2016.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). In the absence of a timely filed Objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

After a careful review of the record, the applicable law, and the Report, the Court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report is incorporated herein by reference and Defendant's motion to dismiss (ECF No. 36) is GRANTED. This action is hereby DISMISSED *without prejudice*.

**IT IS SO ORDERED.**

/s/Bruce Howe Hendricks  
United States District Judge

April 15, 2016  
Greenville, South Carolina

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**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.